

Minutes of the Hearing Officer meeting held on Wednesday, August 14, 2019 at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Mr. Harland, Hearing Officer
Jared Hall, Community & Economic Development Manager
Susan Nixon, Associate Planner
Briant Farnsworth, Deputy City Attorney
Applicants

Mr. Harland opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

CONFLICT OF INTEREST

Mr. Harland stated that he has no conflicts of interest for this agenda.

CASE #1565 – COTTONWOOD CREEK APARTMENTS – 309 East 4500 South – Project #19-104

Jared Lundberg was the applicant present to represent Next Wave Property Management. Susan Nixon reviewed the location and request for a variance to allow covered parking in the front setback area of an existing apartment complex located at the property addressed 309 East 4500 South. The property is located in the R-M-20 zone. Ms. Nixon stated the variance requested is to install covered parking which is classified as an Accessory Use which are required to be located in the side or rear of the property and at least six (6) feet behind the main dwelling. The site plan shows the proposed location of two parking structures on the subject property and do not meet City code. The first proposed parking structure is furthest south on the property would be setback about 80 feet, is 117 feet in length, and would have double rows of parking to accommodate 26 parking stalls. The second structure further to the north is 90 feet in length and is a single row to accommodate 10 additional parking stalls. The original project was developed in 1972 under a R-3 classification. The City code for R-3 at that time required one covered parking stall per dwelling unit which total 36 Stalls. Ariel photographs of the property previously showed covered parking stalls that were built simultaneously with the apartment complex. The covered parking structure was removed from the property sometime between 1998 and 2001. Therefore, any legal nonconforming status for the covered parking has been lost since there has been no covered parking since that time. The proposed covered parking structures will be setback 13 feet from the main dwelling units and meets building codes. There is 25 feet of frontage landscaping along 4500 South which is more than required. The building is set back to the rear of the property and there is no other place to locate the Accessory Structures on the property.

Ms. Nixon stated that Staff does feel that the literal enforcement of city code would cause unreasonable hardship because many of the potential uses may not be able to provide covered parking as an Accessory Use due to the existing location of the apartment building is at the rear of the property and there is no other location on the property to

provide parking. Ms. Nixon explained that the proposal does meet the requirement of one parking stall per unit which was required in the R-3 code in 1972 and is also required in the existing R-M-20 Zone. While the project does not meet the current parking stall requirement of 2.5 stalls per unit the variance would provide at least 1 covered stall and is closer to conformance.

Ms. Nixon explained that Staff has found special circumstances which are attached to the property and believes that the apartment building was originally built to the rear of the property with the intent of having covered parking in the front.

Ms. Nixon stated that Staff has found that granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district. Without the variance this property would not be able to provide covered parking for the tenants. Covered parking is an allowed Accessory Use that was previously enjoyed for many years and would allow the current tenants to enjoy the amenity.

Ms. Nixon explained that the variance will not substantially affect the General Plan and will not be contrary to the Public interest or the intent of the R-M-20 Zone with regards to the front setback for main structures of 25 feet. Ms. Nixon stated that the spirit of the Land Use Ordinance is observed and justice is done by granting the variance and the project will be able to provide the covered parking for tenants that will benefit from the improvement to the property.

Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposal meets the standards for a variance. Therefore, staff recommends approval of the requested variance to locate covered parking structure in the front setback area for property addressed 309 East 4500 South, subject to the following conditions:

1. The applicant shall submit an application for a Murray City building permit.
2. The project shall comply with all other development standards of the Murray Land Use Ordinance.

Mr. Harland asked if there are currently 60 parking stalls on site and would this provide a total of 36 covered parking stalls. Ms. Nixon stated that both are correct. Mr. Harland asked how Staff became aware of this proposal. Ms. Nixon explained that Mr. Lundberg came to the City offices to submit a building permit for the proposed parking structures. Upon review by Staff it was discovered they would be located within the front setback and staff advised him that accessory structures are not allowed within the front setback area. Mr. Lundberg assumed that the construction of the parking structures would be allowed, and they had started preliminary work on the project. Staff was not able to approve a building permit to allow the continued work on the property.

Mr. Harland asked if this same apartment building were to be build today that the site would require about 90 parking stalls. Ms. Nixon answered yes, and that current code

would require 2.5 stalls per apartment unit. Mr. Harland asked why we are not requiring additional stalls to be added. Ms. Nixon explained that the reason we cannot require it now is because they are not changing the use or reconfiguring the layout of the parking area. The mechanisms for bringing a property into code are not being done, so Staff has no way to force additional parking stalls.

Mr. Harland stated that the front setback area needs to be a minimum of 25 feet and this site has 80 feet and asked what the landscape buffer requirement is along 4500 South. Ms. Nixon replied that in the R-M-20 does not have a minimum requirement for landscaping, the building just has to be set back a minimum of 25 feet.

Jared Lundberg, 309 East 4500 South, representing Next Wave Property Management who is the owner of the apartment complex. New Wave Property Management purchased the apartment complex in 2016 with the intent to renovate it. He stated that since they have owned the apartments, they have completed several projects with the most recent being the exterior paint and interior water features and walkways. Mr. Lundberg stated that the reason some of the construction started before the building permit was taken out was because there was a miscommunication between them and the company that was hired to install the covered parking. Each party thought the other was pulling the permits but once we realized there was not a permit, the work was stopped immediately, and he went to the City to apply for the permit. Mr. Lundberg added that he is aware of other multi-family projects in the area are able to provide covered parking, but because of how far back the building was placed on the property there is nowhere else to provide covered parking. Mr. Harland was curious what type of materials will be used to construct the parking structure and if they will do any paving. Mr. Lundberg answered that they are using steel and will also do some patchwork on the parking lot.

Mr. Harland opened the meeting for public comment. There was no public comment and the public hearing was closed.

Mr. Harland asked if any public comment had been received by Staff prior to this meeting. Ms. Nixon replied that no public comment has been previously received.

Mr. Harland stated he will forward his written decision to the Community Development Office at 4646 South 500 West, by noon on Wednesday, August 21, 2019.

There was no other business.

The meeting was adjourned at 12:49 p.m.


Jared Hall, Community & Economic Development Manager

